

1 Adopt 2 Cal. Code Regs. Section 18550.1 to read:

2 **18550.1. Independent and Coordinated Expenditures.**

3 (a) For purposes of Government Code section 85500(b), an expenditure is not considered  
4 independent, and shall be treated as a contribution from the person making the expenditure to the  
5 candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure funds  
6 a communication that expressly advocates the nomination, election or defeat of a clearly identified  
7 candidate and is made under the following circumstances:

8 (1) The expenditure is made at the request, suggestion, or direction of, or in cooperation,  
9 consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit,  
10 the expenditure is made, or

11 (2) the communication funded by the expenditure is created, produced or disseminated;

12 (A) after the candidate has made or participated in making any decision regarding the  
13 content, timing, location, mode, intended audience, volume of distribution, or frequency of  
14 placement of the communication; or

15 (B) after discussion between the creator, producer or distributor of a communication, or  
16 the person paying for that communication, and the candidate, regarding the content, timing,  
17 location, mode, intended audience, volume of distribution or frequency of placement of that  
18 communication, the result of which is agreement on any of these topics.

19 As used throughout this regulation, the term "candidate" includes a candidate controlled  
20 committee and the agent of the candidate or controlled committee, when the agent acts within the  
21 course and scope of his or her agency.

1       (b) In addition to the rule provided in subdivision (a) of this regulation, there shall be a  
2 presumption that an expenditure funding a communication that expressly advocates the  
3 nomination, election or defeat of a clearly identified candidate is not independent of the candidate  
4 on whose behalf, or for whose benefit, the expenditure is made, when

5       (1) the person making the expenditure has information, not generally available to the  
6 public, regarding campaign needs or plans of the candidate, furnished by the candidate to the  
7 person making the expenditure, or

8       (2) the expenditure is made by or through any agent of the candidate or committee in the  
9 course of ~~their~~ the agent's involvement in the current campaign, or

10       (3) the person making the expenditure retains the services of a person who provides [,or  
11 within six months of the expenditure has provided,] the candidate with professional services related  
12 to election strategy or advocacy, including polling, research, media consulting and advertising  
13 planning, or

14       (4) the communication replicates, reproduces, republishes or disseminates, in whole or in  
15 substantial part, a communication designed, produced, paid for or distributed by the candidate, or

16       (5) the communication relates to any fundraising activity on behalf of the candidate.

17       (c) Notwithstanding the foregoing, an expenditure shall not be considered a contribution to  
18 a candidate merely because

19       (1) the person making the expenditure interviews the candidate on issues affecting that  
20 person, or discusses matters unrelated to the candidate's campaign, or

21       (2) the person making the expenditure has obtained a photograph, biography, position  
22 paper, press release, or similar material from the candidate, or

23       (3) the person makes an expenditure in response to a public request for support by a

1 candidate, provided that there is no discussion with the candidate prior to the expenditure relating  
2 to the candidate's or committee's campaign needs or strategy, or to details of the expenditure, or

3 (4) the person making the expenditure has invited the candidate to make a public  
4 appearance before the person's members, employees, shareholders, or the families thereof,  
5 provided that there is no discussion with the candidate prior to the expenditure relating to the  
6 candidate's or committee's campaign needs or strategy, or to details of the expenditure, or

7 (5) a person informs a candidate that the person intends to make, or has made, an  
8 expenditure, provided that there is no exchange of information, not otherwise available to the  
9 public, relating to the candidate's campaign needs or strategy, or to details of the expenditure, or

10 (6) The expenditure is made at the request or suggestion of the candidate for the benefit  
11 of another candidate or committee.  
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13 NOTE: Authority cited: Section 83112, Government Code.  
14 Reference: Section 85500(b), Government Code.

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